

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA, *ex rel.*)
DAVID M. KESTER, et al.,)
Plaintiffs,) Civil Action No.
v.) 1:11-cv-08196 (CM)
NOVARTIS PHARMACEUTICAL) ECF CASE
CORPORATION, et al.,)
Defendants.)

PLAINTIFFS' PROPOSED SPECIAL VERDICT FORM

JURY VERDICT FORM

Based on the instructions that have been given to you, please answer the following questions:

SECTION 1 – EXJADE QUESTIONS:

Anti-Kickback Statute Violation

1. By a preponderance of the evidence, did defendant Novartis knowingly and willfully offer or provide patient referrals and/or rebates to a pharmacy to induce the pharmacy to recommend Exjade refills to patients?

Yes

No

If Yes, which specialty pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

2. If you answered yes to Question 1 as to one or more pharmacies, by a preponderance of the evidence, did those pharmacies knowingly and willfully accept patient referrals and/or rebates in exchange for recommending Exjade refills to patients?

Yes

No

Federal False Claims Act Violations (Exjade)

If you answered yes to Question 1 or Question 2, then please answer the following three questions about the federal False Claims Act:

3. Did Novartis knowingly or recklessly cause false or fraudulent claims for payment to be presented to Medicare or Medicaid by any of the Exjade pharmacies?

Yes

No

If Yes, which pharmacies (check all that apply) did the false or fraudulent claims relate to:

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

4. Did Novartis either knowingly or recklessly make or use false statements, or cause any of the three Exjade pharmacies to make or use false statements, material to claims for reimbursement for Exjade paid by Medicare or Medicaid?

Yes

No

If Yes, which pharmacies (check all that apply) did the false statements relate to:

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

5. Did Novartis conspire with any of the Exjade pharmacies to violate the federal False Claims Act?

Yes

No

If Yes, with which pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

State False Claims Act Violations (Exjade)

If you answered yes to Question 1 or Question 2, then please answer the following three questions (Questions 6, 7, and 8) about the False Claims Acts of the states of California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois; Indiana; Louisiana; Maryland; Massachusetts; Michigan; Minnesota; Montana; Nevada; New Jersey; New Mexico; New York, North Carolina; Oklahoma; Rhode Island; Tennessee; Virginia; and Wisconsin:

6. Did Novartis knowingly or recklessly cause false or fraudulent claims for payment to be presented to the states' Medicaid programs by any of the Exjade pharmacies in connection with a violation of the federal AKS?

- Yes
 No

If Yes, which pharmacies (check all that apply) did the false or fraudulent claims relate to:

- Accredo BioScrip US Bioservices

If yes, for each of these pharmacies, during what time period?

- Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]
BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]
US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

7. Did Novartis either knowingly or recklessly make or use false statements, or cause any of the three Exjade pharmacies to make or use false statements, material to claims for reimbursement for Exjade paid by the states' Medicaid programs in connection with a violation of the federal AKS?

Yes

No

If Yes, which pharmacies (check all that apply) did the false statements relate to:

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

8. Did Novartis conspire with any of the Exjade pharmacies to violate the states' False Claims Acts in connection with a violation of the federal AKS?

Yes

No

If Yes, with which pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

9. Did Novartis knowingly or recklessly violate the following states' False Claims Acts by violating a provision of State law, a State regulation, or a State policy upon which payment by the state's Medicaid program was conditioned?

California (Question 9)

Yes

No

If Yes, with which specialty pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

Georgia (Question 9)

Yes

No

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

Illinois (Question 9)

Yes

No

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

Indiana (Question 9)

Yes

No

If Yes, with which specialty pharmacies (check all that apply):

Accredo BioScrip US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

Michigan (Question 9)

Yes

No

If Yes, with which specialty pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

New Jersey (Question 9)

Yes

No

If Yes, with which specialty pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

New York (Question 9)

Yes

No

If Yes, with which specialty pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo:

[April 1, 2008 to March 31, 2012]

_____ [Other]

BioScrip:

[February 15, 2007 to March 31, 2012]

_____ [Other]

US Bioservices:

[April 1, 2008 to March 31, 2012]

_____ [Other]

Oklahoma (Question 9)

Yes

No

If Yes, with which specialty pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo:

[April 1, 2008 to March 31, 2012]

_____ [Other]

BioScrip:

[February 15, 2007 to March 31, 2012]

_____ [Other]

US Bioservices:

[April 1, 2008 to March 31, 2012]

_____ [Other]

Wisconsin (Question 9)

Yes

No

If Yes, with which specialty pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

Texas False Claims Act Violations (Exjade)

If you answered yes to Question 1 or Question 2, then please answer the following question about the False Claims Act of the state of Texas:

10. Did Novartis knowingly or recklessly violate the Texas False Claims Act in connection with its relationship with any of the Exjade specialty pharmacies?

Yes

No

If Yes, which specialty pharmacies (check all that apply):

Accredo

BioScrip

US Bioservices

If yes, for each of these pharmacies, during what time period?

Accredo: [April 1, 2008 to March 31, 2012] _____ [Other]

BioScrip: [February 15, 2007 to March 31, 2012] _____ [Other]

US Bioservices: [April 1, 2008 to March 31, 2012] _____ [Other]

SECTION 3 – MYFORTIC QUESTIONS:

Anti-Kickback Statute Violation

11. By a preponderance of the evidence, did Novartis knowingly and willfully offer or provide rebates to a specialty pharmacy to induce the pharmacy to recommend Myfortic?

Yes

No

If Yes, which pharmacies (check all that apply):

Kilgore's

Bryant's

Baylor

Twenty-Ten

Transcript

If yes, for each of these pharmacies, during what time period ?

Kilgore's: [June 22, 2004 – November 22, 2013] _____ [Other]

Bryant's: [November 1, 2004 – December 30, 2013] _____ [Other]

Baylor: [October 1, 2009 – September 30, 2010] _____ [Other]

Twenty-Ten: [April 1, 2010 – March 31, 2012] _____ [Other]

Transcript: [July 15, 2011 – June 30, 2013] _____ [Other]

12. If you answered yes to Question 11 as to one or more pharmacies, by a preponderance of the evidence, did those pharmacies knowingly and willfully accept rebates in exchange for recommending Myfortic to physicians or patients?

Yes

No

Federal False Claims Act Violations (Myfortic)

If you answered yes to Question 11 or Question 12, then please answer the following three questions:

13. Did Novartis knowingly or recklessly cause false or fraudulent claims for payment to be presented to Medicare or Medicaid by any of the Myfortic pharmacies?

Yes

No

If Yes, which pharmacies (check all that apply):

Kilgore's

Bryant's

Baylor

Twenty-Ten

Transcript

If yes, for each of these pharmacies, during what time period?

Kilgore's: [June 22, 2004 – November 22, 2013] _____ [Other]

Bryant's: [November 1, 2004 – December 30, 2013] _____ [Other]

Baylor: [October 1, 2009 – September 30, 2010] _____ [Other]

Twenty-Ten: [April 1, 2010 – March 31, 2012] _____ [Other]

Transcript: [July 15, 2011 – June 30, 2013] _____ [Other]

14. Did Novartis either knowingly or recklessly make or use false statements, or cause any of the Myfortic pharmacies to make or use false statements, material to Medicare or Medicaid claims for reimbursement for Myfortic?

Yes

No

If yes, which pharmacies (check all that apply) did the false statements relate to:

Kilgore's

Bryant's

Baylor

Twenty-Ten

Transcript

If yes, for each of these pharmacies, during what time period ?

Kilgore's: [June 22, 2004 – November 22, 2013] _____ [Other]

Bryant's: [November 1, 2004 – December 30, 2013] _____ [Other]

Baylor: [October 1, 2009 – September 30, 2010] _____ [Other]

Twenty-Ten: [April 1, 2010 – March 31, 2012] _____ [Other]

Transcript: [July 15, 2011 – June 30, 2013] _____ [Other]

15. Did Novartis conspire with any of the Myfortic pharmacies to violate the federal False Claims Act?

Yes

No

If Yes, with which pharmacies (check all that apply):

Kilgore's

Bryant's

Baylor

Twenty-Ten

Transcript

If yes, for each of these pharmacies, during what time period?

Kilgore's: [June 22, 2004 – November 22, 2013] _____ [Other]

Bryant's: [November 1, 2004 – December 30, 2013] _____ [Other]

Baylor: [October 1, 2009 – September 30, 2010] _____ [Other]

Twenty-Ten: [April 1, 2010 – March 31, 2012] _____ [Other]

Transcript: [July 15, 2011 – June 30, 2013] _____ [Other]

State False Claims Act Violations (Myfortic)

If you answered yes to Question 11 or Question 12, then please answer the following three questions about the False Claims Act of the state of California:

16. Did Novartis knowingly or recklessly cause false or fraudulent claims for payment to be presented to California's Medicaid program by Twenty-Ten?

Yes

No

If yes, during what time period?

Twenty-Ten: [April 1, 2010 – March 31, 2012] _____ [Other]

17. Did Novartis either knowingly or recklessly make or use false statements, or cause Twenty-Ten to make or use false statements, material to claims for reimbursement submitted to California's Medicaid program for Myfortic?

Yes

No

If yes, during what time period ?

Twenty-Ten: [April 1, 2010 – March 31, 2012] _____ [Other]

18. Did Novartis conspire with Twenty-Ten to violate the California False Claims Act?

Yes

No

If yes, during what time period?

Twenty-Ten: [April 1, 2010 – March 31, 2012] _____ [Other]

Texas False Claims Act Violations (Myfortic)

If you answered yes to Question 11 or Question 12, then please answer the following question about the False Claims Act of the state of Texas:

19. Did Novartis knowingly or recklessly violate the Texas False Claims Act in connection with its relationship with Baylor?

Yes

No

If yes, during what time period?

Baylor: [October 1, 2009 – September 30, 2010] _____ [Other]

SECTION 3 – EXJADE QUESTIONS ABOUT NOVARTIS’ RELATIONSHIP WITH BIOSCRIP:

Illinois – Public Assistance Fraud

20. Did Illinois prove its claim against Novartis under the Illinois Public Assistance Fraud statute in connection with Novartis’ relationship with BioScrip?

Yes

No

If your answer is “yes,” state the amount of damages:

\$ _____

If your answer is “yes,” state the number of civil penalties:

\$ _____

Indiana – Crime Victims Relief Act

21. Did Indiana prove its claim against Novartis under the Crime Victims Relief Act in connection with Novartis’ relationship with BioScrip?

Yes

No

If your answer is “yes,” state the amount of damages:

\$ _____

Maryland – Fraud or Deceit

22. Did Maryland prove its claim against Novartis for Fraud or Deceit in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

If your answer is "yes," state the amount of punitive damages:

\$ _____

New York – Social Services Law Section 145-b

23. Did New York prove its claim against Novartis under Social Services Law Section 145-b in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

New York – Executive Law Section 63-c

24. Did New York prove its claim against Novartis under Executive Law Section 63-c in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Oklahoma – Medicaid Program Integrity Act (Section 1005(A)(1))

25. Did Oklahoma prove its claim against Novartis under the Medicaid Program Integrity Act in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Oklahoma – Medicaid Program Integrity Act (Section 1005(A)(6))

26. Did Oklahoma prove its claim against Novartis under the Medicaid Program Integrity Act in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Oklahoma – Common Law Fraud

27. Did Oklahoma prove its claim against Novartis for Common Law Fraud in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Oklahoma – Civil Conspiracy

28. Did Oklahoma prove its claim against Novartis for Civil Conspiracy in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Washington – Fraudulent Practices Under RCW 74.09.210(1)(a)

29. Did Washington prove its claim against Novartis for Fraudulent Practices under RCW 74.09.210(1)(a) in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Washington – Fraudulent Practices Under RCW 74.09.210(1)(b)

30. Did Washington prove its claim against Novartis for Fraudulent Practices under RCW 74.09.210(1)(b) in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Washington – Fraudulent Practices Under RCW 74.09.210(1)(c)

31. Did Washington prove its claim against Novartis for Fraudulent Practices under RCW 74.09.210(1)(c) in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Washington – Tortious Interference with Business Expectation

32. Did Washington prove its claim against Novartis for Tortious Interference with Business Expectation in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Washington – Civil Conspiracy

33. Did Washington prove its claim against Novartis for Civil Conspiracy in connection with Novartis' relationship with BioScrip?

Yes

No

If your answer is "yes," state the amount of damages:

\$ _____

Date: _____

Foreperson